

No. 71984



FILED

Sep 15 2026

THE BOARD of DISCIPLINARY APPEALS
Appointed by the Supreme Court of Texas

BEFORE THE BOARD OF DISCIPLINARY APPEALS

Appointed By

THE SUPREME COURT OF TEXAS

CARL W. GORDON,

Appellant,

v.

COMMISSION FOR LAWYER DISCIPLINE,

Appellee.

ON APPEAL FROM THE EVIDENTIARY PANEL 4-6
CASE No. 2023-06618

APPELLANT'S AMENDED MOTION TO MODIFY REHEARING ORDER

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TO THE HONORABLE MEMBERS OF THE BOARD OF DISCIPLINARY APPEALS:

1.) Pursuant to TRAP 10 & TRAP 49, Appellant, Carl W. Gordon (“Gordon”), files *Appellant’s Amended Motion to Modify Rehearing Order* requesting this Board to modify or vacate its Sept. 8th “**Order Denying Amended Motion for Rehearing and Amended Motion for En Banc Reconsideration**” to include an express ruling either sustaining or overruling Gordon’s objections that are lodged in *Appellant’s Amended Motion for Rehearing and Amended Motion for En Banc Reconsideration*.

FACTS

2.) On Sept. 1, 2026, Gordon filed his Motion for Leave to File Appellant’s Amended Motion for Rehearing and Amended Motion for En Banc Reconsideration (the “Motion for Leave”) and his Amended Motion for Rehearing and Amended Motion for En Banc Reconsideration (the “Amended Motion”).

3.) On Sept. 8, 2026, the Board issued an order granting the Motion for Leave and denying the Amended Motion (the “Order”). See **Exhibit A** attached.

4.) Pursuant to TRAP 19.1(b), this Board has jurisdiction over this appeal and the authority to grant or deny this motion until Oct. 8, 2026.

ARGUMENT AND AUTHORITIES

5.) The purpose of the Amended Motion is that Gordon seeks a ruling on his substantive objections to Appellee's evidence that was admitted at the evidentiary hearing. (*See* RR at Petitioner's Exhibits Nos. 1 – 3).

6.) Although the Order rules on the Amended Motion, the Order fails to express a ruling on Gordon's objections to Appellee's evidence.

7.) The Order states in relevant part the following:

“On this day, the Board of Disciplinary Appeals considered Appellant's Amended Motion for Rehearing and Amended Motion for En Banc Reconsideration. Having considered Appellant's motion and the arguments therein, the Board **ORDERS** that Appellant's Amended Motion for Rehearing and Amended Motion for En Banc Reconsideration are **DENIED**.”

8.) The Order states that the Board undertook substantive consideration of the Amended Motion by stating it considered the “arguments” in the Amended Motion.¹

9.) However, the Order omits a ruling on Gordon's substantive objections found in the Amended Motion to Appellee's evidence.

10.) Therefore, the Order is legally ineffective to serve as a ruling on Gordon's objections because a ruling on the Amended Motion does not infer expressly or implicitly, that the Board ruled on Gordon's objections.

¹ *See Southwest Warren, Inc., v. Crawford*, 464 S.W.3d 822, 829 (Tex. App.—Houston [1st Dist.] 2015, no pet.)(an order that recites that the court considered the “arguments” is an affirmative indication that the court undertook substantive consideration of the motion for new trial or motion for rehearing).

11.) Ruling on a motion and ruling on objections to evidence are not alternatives; nor are they concomitants.²

12.) Neither implies a ruling—or any particular ruling—on the other.³

13.) Therefore, the parties are unable to determine from the Order whether the Board overruled or sustained Gordon’s substantive objections to Appellee’s evidence.⁴

14.) A ruling on Gordon’s substantive objections is necessary because, in order to preserve error for the Supreme Court of Texas to review, Gordon requires a ruling on his objections from this Board.⁵

15.) When ruling on the Amended Motion and the objections, Gordon requests that the Board also consider the briefs and the record on appeal, which includes the exhibits admitted at the evidentiary hearing.

16.) In sum, the “record on appeal” consists of the evidentiary panel clerk’s record and a reporter’s record of the evidentiary panel hearing.⁶

² See *Well Solutions, Inc. v. Stafford*, 32 S.W.3d 313, 317 (Tex. App.—San Antonio 2000, no pet.).

³ See *id.*

⁴ See *Dolcefino v. Randolph*, 19 S.W.3d 906, 926 (Tex. App.—Houston [14th Dist.] 2000, pet. denied) (we cannot infer from the record if the court overruled or sustained appellant’s objections to evidence).

⁵ See *Seim v. All State Texas Lloyds*, 551 S.W.3d 161, 166 (Tex. 2018)(when evidence presents purely substantive defects, those defects can be complained of for the first time on appeal and are not subject to the general rules of error preservation).

⁶ See BODA IPR 4.02(a)(**Record on Appeal**).

17.) The Board initially decided this case on Aug. 3, 2026 by considering “the record and the briefs” and for that reason the Board should also decide the Amended Motion and the objections by considering “the record and the briefs.”⁷

18.) Therefore, Gordon requests that this Board recite in its order ruling on the Amended Motion and objections that the Board considered the briefs, the record on appeal, the evidentiary objections and the evidentiary hearing admitted exhibits so that the parties are clear as to what was considered by the Board when it rules on the objections.⁸

19.) To this end, Gordon has included with this motion a proposed order that reflects this Board sustaining his objections to Appellee’s evidence. *See Exhibit C* attached.

20.) Gordon has also included with this motion a proposed order that reflects this Board overruling his objections to Appellee’s evidence. *See Exhibit D* attached.

21.) Lastly, Gordon has also included with this motion a proposed order that reflects that this Board has **GRANTED** or **DENIED** this motion. *See Exhibit E* attached.

⁷ See BODA Judgment issued in this case on Aug. 3, 2026, attached as **Exhibit B**.

⁸ See *B.C. v. Steak N Shake Oper., Inc.*, 598 S.W.3d 256, 259-260 (Tex. 2020)(court can affirmatively indicate what was considered in deciding a motion by expressly including language in the order to confirm what was considered).

22.) Therefore, Gordon requests that the Board grant this motion, modify or vacate the Order, and enter a new order that grants leave and includes an express ruling that either sustains or overrules Gordon's substantive objections to Petitioner's Exhibits 1 - 3.

23.) *In the alternative*, Gordon requests that this Board sign an order denying this motion so that the parties and the Supreme Court of Texas are notified that this Board refuses to rule on Gordon's objections to Appellee's evidence.⁹

24.) Gordon prays for any other such relief that he may be entitled under law or equity.

Respectfully Submitted,

/s/ Carl W. Gordon

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⁹ See *Seim v. All State Texas Lloyds*, 551 S.W.3d at 164 (Tex. 2018)(to preserve a complaint for appellate review, a party must complain by way of timely objection and the court must rule or *refuse to rule* on the objection)(emphasis added).

CERTIFICATE OF CONFERENCE

Prior to filing this motion, Appellant has conferred with Appellee's counsel regarding the relief sought in this motion. Appellee is opposed to the Board ruling on Appellant's objections to Appellee's evidence.

/s/Carl W. Gordon
Carl W. Gordon, *Pro Se*

CERTIFICATE OF WORD COUNT

Relying on the word count function in the word processing software used to produce this document, I certify that this Appellant's Amended Motion contains 788 words excluding any parts exempted by TEX. R. APP. P. 9.4.

/s/Carl W. Gordon
Carl W. Gordon, *Pro Se*

CERTIFICATE OF SERVICE

I certify that true copies of the foregoing instruments were served on Appellee's counsel in accordance with the Texas Rules of Appellate Procedure on Sept. 15, 2026.

/s/ Carl W. Gordon
Carl W. Gordon, *Pro Se*



BEFORE THE BOARD OF DISCIPLINARY APPEALS
Appointed By
THE SUPREME COURT OF TEXAS

CARL W. GORDON

State Bar of Texas Card No. 24047659

v.

**COMMISSION FOR
LAWYER DISCIPLINE**

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CAUSE NO. 71984

**ORDER DENYING AMENDED MOTION FOR REHEARING AND
AMENDED MOTION FOR EN BANC RECONSIDERATION**

On this day, the Board of Disciplinary Appeals considered the Motion for Leave to File Appellant's Amended Motion for Rehearing and Amended Motion for En Banc Reconsideration, as well as the Amended Motion for Rehearing and Amended Motion for En Banc Reconsideration, filed by Appellant Carl W. Gordon, in the above-captioned evidentiary appeal. Having considered Appellant's motions and the arguments therein, the Board **ORDERS** that Appellant's motion for leave to amend is **GRANTED**. The Board **ORDERS** that Appellant's Amended Motion for Rehearing and Amended Motion for En Banc Reconsideration are **DENIED**.

SIGNED this 8th day of September 2026.

A handwritten signature in blue ink, reading "Courtney Schutz", is written over a horizontal line.

CHAIR PRESIDING

Board members Melissa Goodwin and Patrick O'Fiel did not participate in this decision. Former Board member Scott Fredricks, who continued to perform the duties of office through September 4, 2026, pursuant to Texas Rule of Disciplinary Procedure 7.01, also did not participate in this decision.



BEFORE THE BOARD OF DISCIPLINARY APPEALS
Appointed By
THE SUPREME COURT OF TEXAS

CARL W. GORDON

State Bar of Texas Card No. 24047659

v.

**COMMISSION FOR
LAWYER DISCIPLINE**

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CAUSE NO. 71984

JUDGMENT

On the 30th day of July 2026, the Board of Disciplinary Appeals heard by submission Carl W. Gordon's appeal from a Judgment of Partially Probated Suspension issued by Evidentiary Panel 4-6 of the State Bar of Texas District 4 Grievance Committee on October 15, 2025. Having considered the record and the briefs, the Board finds that the judgment should be affirmed. It is therefore **ORDERED, ADJUDGED, and DECREED** that the Judgment of Partially Probated Suspension issued October 15, 2025, in Case No. 202306618, is hereby, in all respects, **AFFIRMED.**

SIGNED this 3rd day of August 2026.

A handwritten signature in blue ink, appearing to be "JMB", is written over a horizontal line. Below the line, the text "CHAIR PRESIDING" is printed in black capital letters.

Board members Scott Fredricks and Melissa Goodwin did not participate in this decision.

BEFORE THE BOARD OF DISCIPLINARY APPEALS

Appointed By

THE SUPREME COURT OF TEXAS

CARL W. GORDON*State Bar of Texas Card No. 24047659*

v.

**COMMISSION FOR
LAWYER DISCIPLINE**§
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§**CASE NO. 71984****ORDER GRANTING AMENDED MOTION FOR REHEARING AND
AMENDED MOTION FOR EN BANC RECONSIDERATION**

On this day, the Board of Disciplinary Appeals considered the Motion for Leave to File Appellant's Amended Motion for Rehearing and Amended Motion for En Banc Reconsideration, as well as the Amended Motion for Rehearing and Amended Motion for En Banc Reconsideration, filed by Appellant Carl W. Gordon, in the above-captioned evidentiary appeal.

Having considered Appellant's motions and the arguments therein, the briefs, the record on appeal, the evidentiary hearing admitted exhibits, and *the objections* to evidence, the Board **ORDERS** that Appellant's motion for leave to amend is **GRANTED**.

The Board further **ORDERS** that Appellant's Amended Motion for Rehearing and Amended Motion for En Banc Reconsideration are **GRANTED** and *the objections* to substance lodged therein to Petitioner's Exhibits 1 - 3 are **SUSTAINED**.

It is therefore **ORDERED, ADJUDGED, and DECREED** that this Court's Judgment issued August 3, 2026 and the Judgment of Partially Probated Suspension issued October 15, 2025, in Case No. 2023-06618, are both hereby in all respects **VACATED**, and this case is **DISMISSED WITH PREJUDICE** in its entirety.

Signed this _____, 2026.

CHAIR PRESIDING

BEFORE THE BOARD OF DISCIPLINARY APPEALS

Appointed By

THE SUPREME COURT OF TEXAS

CARL W. GORDON*State Bar of Texas Card No. 24047659*

v.

**COMMISSION FOR
LAWYER DISCIPLINE**§
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§**CASE NO. 71984****REVISED ORDER DENYING AMENDED MOTION FOR REHEARING AND
AMENDED MOTION FOR EN BANC RECONSIDERATION**

On this day, the Board of Disciplinary Appeals considered the Motion for Leave to File Appellant's Amended Motion for Rehearing and Amended Motion for En Banc Reconsideration, as well as the Amended Motion for Rehearing and Amended Motion for En Banc Reconsideration, filed by Appellant Carl W. Gordon, in the above-captioned evidentiary appeal.

Having considered Appellant's motions and the arguments therein, the briefs, the record on appeal, the evidentiary hearing admitted exhibits, and *the objections* to evidence, the Board **ORDERS** that Appellant's motion for leave to amend is **GRANTED**.

The Board further **ORDERS** that Appellant's Amended Motion for Rehearing and Amended Motion for En Banc Reconsideration are **DENIED** and *the objections* to substance lodged therein to Petitioner's Exhibits 1 - 3 are **OVERRULED**.

Signed this _____, 2026.

CHAIR PRESIDING

BEFORE THE BOARD OF DISCIPLINARY APPEALS

Appointed By

THE SUPREME COURT OF TEXAS

CARL W. GORDON

State Bar of Texas Card No. 24047659

v.

COMMISSION FOR
LAWYER DISCIPLINE

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CASE NO. 71984

ORDER ON
AMENDED MOTION TO MODIFY REHEARING ORDER

On this day, the Board of Disciplinary Appeals considered the Amended Motion to Modify Rehearing Order, filed by Appellant Carl W. Gordon, in the above-captioned evidentiary appeal.

Having considered Appellant's amended motion, the Board **ORDERS** that the motion is:

_____ **GRANTED.** The Board vacates its Sept. 8, 2026 "*Order Denying Amended Motion for Rehearing and Amended Motion for En Banc Reconsideration.*" The Board will immediately issue a new order that grants leave and includes a ruling that either sustains or overrules Appellant's substantive objections to evidence that are pending in Appellant's Amended Motion for Rehearing and Amended Motion for En Banc Reconsideration.

_____ **DENIED.** The Board will not issue an order that includes a ruling on Appellant's substantive objections to evidence that are pending in Appellant's Amended Motion for Rehearing and Amended Motion for En Banc Reconsideration.

Signed this _____, 2026.

CHAIR PRESIDING